IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7254 OF 2005

Adreet Builders & Developers Pvt. Ltd., ..Petitioners.

Versus

Municipal Corporation of Gr.Mumbai ..Respondents.
and others.
and another.

Mr. Y.Z.Kankaria with Mr. O.R.Pandey i/by M/s. Pandey & Co. for the Petitioners.
Mr. A.J. Bhor for the Respondent No.1.
Mr. S.V. Kadam for the Respondent Nos. 2 to 6.

CORAM : S. A. BOBDE, J.
DATED : 20TH OCTOBER, 2005.

P.C.:

1. Rule returnable forthwith. Mr. Bhor, Advocate, for the Respondent No.1 and Mr. Kadam for the Respondent Nos. 2 to 6 appear and waive service of rule. Heard by consent.

2. The petitioner has challenged the order passed by the City Civil Court, allowing the chamber summons of the Respondent Nos. 2 to 6 for impleadment as defendants in his suit. Mr. Kankaria, the learned counsel for the petitioner submitted that the order passed by the learned City Civil Court is wrong and illegal in view of the fact that the Respondent Nos.

2 to 6 have no interest whatsoever in the subject matter of the suit filed by the petitioner.

3. The petitioners have filed a suit in regard to an I.O.D. granted to them in respect of C.T.S. No. 616, survey No. 41. Apprehending, the withdrawal of the I.O.D. by the BMC i.e. the Respondent No.1, the petitioners filed the suit and sought a temporary injunction therein. The respondents 2 to 6 claiming to be true owners of the C.T.S. No. 616 in respect of which the I.O.D. is granted, had applied for their impleadment in the aforesaid suit. This has been allowed by the impugned order dated 22.09.2005. Mr. Kankaria, the learned counsel for the petitioners submitted that the subject matter of the suit is only the apprehended withdrawal of the I.O.D and the issue of title is pending between the petitioner and the respondent Nos. 2 to 6 in suit No. 3802/2004 in this court.

4. I do not see how the pendency of a suit in this court in which the parties are claiming a title adverse to each others vitiates the order of the court below. It is obvious from the existence of the suit No.3802/2004 that there is dispute between the petitioner on the one hand and the respondent Nos. 2

to 6 on the other in regard to the title of the land for which the I.O.D. is granted by the respondent No.1.

5. Mr. Bhor, the learned counsel for the BMC submits that an IOD is granted by the Corporation only to the true owner and in any case in accordance with the consent of the true owner.

6. In these circumstances, I am of view that the impugned order does not suffers from any illegality, jurisdictional or otherwise and the respondent Nos. 2 to 6 have been correctly impleaded as defendants.

7. Petition is dismissed. Rule is discharged.

DT. 20.10.05 (S.A.BOBDE,J)

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